

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

MANHATTAN BEACH UNIFIED
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2013040110

ORDER DENYING IN PART
REQUEST FOR CONTINUANCE AND
SETTING MEDIATION, PREHEARING
CONFERENCE AND DUE PROCESS
HEARING

On April 2, 2013, the Manhattan Beach Unified School District (District) filed a request for due process hearing. The matter was set on an expedited calendar, with mediation set for April 11, 2013, a prehearing conference set on April 17, 2013, and due process hearing set to begin on April 23, 2013. On April 4, 2013, the Office of Administrative Hearings (OAH) staff attempted to confirm the April 11, 2013 mediation. Over the course of several days, the parties would not confirm the status of the mediation and on April 10, 2013, the parties canceled the mediation. On April 11, 2013, the parties filed a request to continue the mediation and requested mediation be set on April 16, 2013. The parties delay in requesting a new mediation date and providing OAH with short notice of the new date being requested, is unreasonable and OAH cannot accommodate the parties' request for an April 16, 2013 mediation. However, as discussed below, OAH will vacate the first day of hearing, April 23, 2013, and schedule mediation for the parties on that date.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied in part and granted in part. The first day of hearing, April 23, 2013, is vacated. This matter will be set as follows:

Prehearing Conference:	April 17, 2013, at 10:00 AM
Mediation:	April 23, 2013, at 9:30 AM
Due Process Hearing:	April 24 – 25, 2013, at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: April 11, 2013

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings